

1 NICHOLAS A. TRUTANICH
 2 United States Attorney
 3 Nevada Bar Number 13644
 KIMBERLY M. FRAYN
 4 Assistant United States Attorney
 5 501 Las Vegas Boulevard South, Suite 1100
 Las Vegas, Nevada 89101
 Telephone: 702.388.6546/Fax 702.388.6418
Kimberly.Frayn@usdoj.gov

6 *Attorneys for the United States*

7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 MIGUEL LOPEZ-ALVAREZ,
 12 a.k.a. "Miguel Gonzalez,"

13 Defendant.

Case No.: 2:20-mj-848-NJK

**Stipulation to Extend Deadlines to
 Conduct Preliminary Hearing and
 File Indictment (First Request)**

14 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.
 15 Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States
 16 Attorney, counsel for the United States of America, and Robert O'Brien,
 17 Assistant Federal Public Defender, counsel for Defendant MIGUEL LOPEZ-ALVAREZ,
 18 that the Court schedule the preliminary hearing in this case for no earlier than 90 days from
 19 the date of the filing of this stipulation. This request requires that the Court extend two
 20 deadlines: (1) that a preliminary hearing be conducted within 14 days of a detained
 21 defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or
 22 indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

23 This stipulation is entered into for the following reasons:

1 1. The United States Attorney's Office has developed an early disposition
2 program for immigration cases, authorized by the Attorney General pursuant to the
3 PROTECT ACT of 2003, Pub. L. 108-21.

4 2. The early disposition program for immigration cases is designed to: (1) reduce
5 the number of hearings required in order to dispose of a criminal case; (2) avoid having
6 more cases added to the court's trial calendar, while still discharging the government's duty
7 to prosecute federal crimes; (3) reduce the amount of time between complaint and
8 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek
9 indictments in immigration cases, which in turn reduces court costs.

10 3. The government has made a plea offer in this case that requires defendant to
11 waive specific rights and hearings in exchange for "fast-track" downward departure under
12 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
13 indicted and before a preliminary hearing is held.

14 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
15 preliminary hearing within a reasonable time, but no later than 14 days after the initial
16 appearance if the defendant is in custody . . ."

17 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
18 showing of good cause—taking into account the public interest in the prompt disposition of
19 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
20 times . . ."

21 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), "[a]ny
22 information or indictment charging an individual with the commission of an offense shall be
23 filed within thirty days from the date on which such individual was arrested or served with a
24 summons in connection with such charges."

1 7. Defendant needs additional time to review the discovery and investigate
2 potential defenses to make an informed decision as to how to proceed, including whether to
3 accept the fast-track plea agreement.

4 8. Accordingly, the parties jointly request that the Court schedule the
5 preliminary hearing in this case no sooner than 90 days from today's date.

6 9. Defendant is in custody and agrees to the extension of the 14-day deadline
7 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
8 § 3161(b), provided that the information or indictment is filed on or before the date ordered
9 pursuant to this stipulation.

10 10. The parties agree to the extension of that deadline.

11 11. This extension supports the public interest in the prompt disposition of
12 criminal cases by permitting defendant to consider entering into a plea agreement under the
13 United States Attorney's Office's fast-track program for § 1326 defendants.

14 12. Accordingly, the additional time requested by this stipulation is allowed
15 under Federal Rule of Criminal Procedure 5.1(d).

16 13. In addition, the parties stipulate and agree that the time between today and
17 the scheduled preliminary hearing is excludable in computing the time within which the
18 defendant must be indicted and the trial herein must commence pursuant to the Speedy
19 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
20 § 3161(h)(7)(B)(i) and (iv).

21
22
23
24

14. This is the first request for an extension of the deadlines by which to conduct the preliminary hearing and to file an indictment.

DATED this 30th day of September, 2020.

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney

/s/ Robert O'Brien
Assistant Federal Public Defender
Counsel for Defendant
MIGUEL LOPEZ-ALVAREZ,

/s/ Kimberly M. Frayn
KIMBERLY M. FRAYN
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No.: 2:20-mj-00848-NJK

Plaintiff,

V.

MIGUEL LOPEZ-ALVAREZ,
a.k.a. "Miguel Gonzalez,"

Order on Stipulation to Extend Deadlines to Conduct Preliminary Hearing and File Indictment

Defendant.

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled for October 13, 2020, at 4:00 p.m., is continued to January 11, 2021, at 4:00 p.m., in Courtroom 3C.

DATED: October 9, 2020.

HONORABLE NANCY J. KOPPE
UNITED STATES MAGISTRATE JUDGE